

12/21/12

**IN THE MATTER OF FACT-FINDING PROCEEDINGS**

City of Pepper Pike	( Case No.:	10-MED-03-0378
	(	
and	( Hearing Date:	November 30, 2012
	(	
IAFF Local 2490	( Findings and Recommendations:	

STATE EMPLOYMENT  
 RELATIONS BOARD  
 2012 DEC 24 A 8:51

Representing the City:	Jon M. Dileno Attorney
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Representing the Union:	Jim Astorino President
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William J. Miller, Jr.  
Fact-Finder

## **SUBMISSION**

This matter concerns fact-finding proceedings between the City of Pepper Pike (hereafter referred to as the "City") and IAFF Local 2490 (hereafter referred to as the "Union"). The State Employment Relations Board (SERB) duly appointed William J. Miller, Jr. as Fact-Finder for this matter.

The fact-finding proceedings were conducted pursuant to the Ohio Collective Bargaining Law, and the rules and regulations of the State Employment Relations Board as amended. The City and Union previously engaged in the collective bargaining process before the appointment of a fact-finder. The parties advised the fact-finder that a number of tentative agreements were made and are to be incorporated in the final agreement.

Prior to the hearing, the parties submitted detailed position statements to the fact-finder in accordance with the Ohio revised code. These statements have been received and carefully considered. On August 15, the parties requested that the fact-finder conduct mediation of the issues in dispute. Mediation occurred on August 23 and September 19, 2012. Many issues were resolved (as attached) but it was necessary to conduct fact-finding, which occurred on November 30, 2012. Subsequent to conclusion of fact-finding, the parties agreed to extend the submission of this report until December 19, 2012. The following issue was considered during fact-finding.

### **ISSUE NO. 1**

#### **PRIVATIZATION OR SUBCONTRACTING OF SERVICES**

##### **CITY'S POSITION**

The City has proposed that language be included in the Agreement which would permit the privatization or subcontracting of services. The City believes this to be necessary to permit it to successfully manage its firefighting services within the Community.

##### **UNION POSITION**

The Union objects to the inclusion of such privatization or subcontracting language and contends there is no need to include such language in the Agreement, and management has sufficient managerial rights under the Agreement to manage the operation.

## FINDINGS AND RECOMMENDATIONS

The parties have reached a tentative agreement on Section 2 of the Management Rights Article but have presented differing proposals under Section 1 - the enumerated rights section.

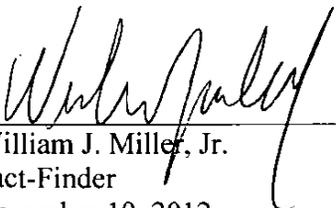
The main focus of attention of the parties resides with the inclusion or exclusion of the enumerated right "to privatize or subcontract" services. The Union raises concerns that to include such a specific reference would allow the City to eliminate the Department. The City, however, views the right to privatize or subcontract services as an integral management right and wants to extinguish any challenge that it does not otherwise retain that right by virtue of the other language contained in its Management Rights proposal.

I am recommending in favor of the City's proposal but with the reference to "privatize or subcontract services" excluded from the language. It is this Fact-Finder's opinion that the expansive language of Section 1, as recommended, does permit the City the right to privatize and subcontract services. Therefore, it is my opinion that the specific reference to "privatize or subcontract services" is unnecessary.

However, I recognize that in exercising that right, the City would be required to satisfy effects-bargaining obligations prior to implementing a decision to privatize or subcontract services.

## CONCLUSION

In conclusion this Fact-Finder submits his findings and recommendations as set forth herein.

  
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William J. Miller, Jr.  
Fact-Finder  
December 19, 2012